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**USWEST**

**RECEIVED**

**DEC 21 1998**

**Kathleen Q. Abernathy**  
Vice President - Regulatory Affairs

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**EX PARTE OR LATE FILED**

December 21, 1998

**EX PARTE**

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 222  
Mail Stop 1170  
Washington, D.C. 20554

RE: CC Docket No. 98-147, Deployment of Wireline Services Offering Advanced  
Telecommunications Capability

Dear Ms. Salas:

On December 21, 1998, the undersigned and Melissa Newman met with Larry Strickling, Jordan Goldstein and Brent Olson of the Common Carrier Bureau regarding the Advanced Services proceeding. Attached is the material used in the meeting.

In accordance with Section 1.1206(b)(2) of the Commission's rules, the original and one copy of this letter, with attachment, are being filed with your office. Acknowledgment and date of receipt of this transmittal is requested. A duplicate of this letter is included for this purpose.

Please contact me should you have any questions concerning this matter.

Sincerely,

*Kathleen Abernathy/ESM*

cc: Larry Strickling  
Jordan Goldstein  
Brent Olson

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Attachment

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**U S WEST xDSL SERVICES**  
**CC Docket 98-147**

FCC Ex Parte Presentation  
December 21, 1998

# SEPARATE SUBSIDIARY CONCERNS

- **There are costs and inefficiencies associated with a separate subsidiary requirement that will fall predominantly on low income and rural residential customers.**
- According to a study by Dr. Jerry Hausman on the impact of the Computer II rules on voice messaging, a separate subsidiary requirement delayed the ability of customers to obtain these services for five years. Only when the BOCs were permitted to provide information services on an integrated basis did they become available on a wide scale basis.
- Learning from the lessons of the *Computer Inquiry* proceeding are there other ways to address cross-subsidization and discrimination concerns?

## **SEPARATE SUBSIDIARY CONCERNS**

- Most CLECs today do not serve residential customers, especially low income and rural customers. Rather, CLECs focus on large and small businesses because it is more profitable to serve those customers.
- As costs to deploy the network increase, LECs will also focus on serving large and small businesses. In other words, LECs will act like CLECs.
- Separate subsidiary requirements are inconsistent with technical realities of the marketplace. It creates an artificial distinction between data and voice in the digital world where soon none will exist.
- Realize the Lessons Learned from the Wireless Industry. Despite a head start and broad facilities deployment, cellular providers could not prevent new PCS providers from getting market share. Customers benefited from lower prices and more choices.

## **SEPARATE SUBSIDIARY CONCERNS**

- **Bottom Line:** The data market is already competitive and therefore the regulatory focus should be on how to ensure access to essential facilities, not on how to duplicate the regulatory requirements created for voice.

# HARMONIZATION OF REGULATION

- The Commission should consider the 706 proceeding in conjunction with the proposed merger of AT&T/TCI.
- AT&T/TCI's network, especially considering AT&T's ownership of TCG, is being made capable of providing residential and business customers with broadband services.
- Asymmetric treatment of the ILECs vis-a-vis AT&T/TCI is not logical. AT&T/TCI will be the largest domestic, long-distance, wireless, cable, and competitive access provider in the world and one of the largest internet providers, The Commission should treat the combined entity and the BOCs equally for regulatory purposes.
- To the extent U S WEST is required to unbundle its broadband facilities, AT&T/TCI should be required to do the same.

# **HARMONIZATION OF REGULATION**

## **Access to Essential Broadband Facilities**

- Access to loops and collocation are essential to getting new services to customers. Beyond that, flexibility is critical to quickly and ubiquitously deploy high-speed data networks throughout the country. This is true for ILEC DSL services and AT&T/TCI's cable modem service.
- AT&T/TCI would create a lopsided market for advanced telecommunications.
  - AT&T argued in the 706 proceeding that U S WEST's xDSL network should be unbundled. However, it intends to keep access to its high-speed data network closed.

- Ask yourself: why does AT&T favor unbundling of the BOCs' xDSL network but not its cable modems? Is this the best way to ensure lower prices and more competition for consumers?



# HARMONIZATION OF REGULATION

- **Additional unbundling obligations imposed on BOCs alone are unnecessary and will threaten investment in new technologies.**

- Michael Armstrong:

“AT&T/TCI will be spending close to \$2 billion to upgrade TCI’s network to enable it to offer high speed services and other telecom companies should not be given a ‘free ride’ on that investment. That could dry up financial resources AT&T/TCI will need to complete their plan and also hinder competition. ‘No company will invest billions of dollars to become a facilities -based broadband services provider if competitors who have not invested a penny of capital, nor taken an ounce of risk, can come along and get a free ride on the investment s and risks of others.’”

Telecommunications Reports, November 3, 1998

# **HARMONIZATION OF REGULATION**

- **Parity of regulation for new, competitive, broadband and data services— is absolutely essential to ensure the rapid broad deployment of new technology and new services to residential consumers. Discriminatory regulation would skew markets, drive inefficient technology, and harm the public interest.**
- **If the Commission requires the LECs to unbundle their xDSL facilities and offer DSL service at a discount, the Commission should impose similar conditions on the AT&T/TCI merger to prevent anticompetitive harm and promote competition.**
- **The best solution is to let the marketplace work and allow LECs to offer broadband services on an integrated basis with safeguards in place to ensure nondiscriminatory access to loops and collocation space.**

# **MODIFYING LATA BOUNDARIES**

- The Commission has express authority to modify LATA boundaries. Nothing in the statute or legislative history indicates that a LATA boundary may not be modified for a limited purpose.
- Previously, the Commission has waived a LATA restriction with respect to ISDN in order to permit a BOC to offer that service across an existing boundary while leaving that boundary intact for other purposes.
  - In doing so, the Commission recognized that the modification would allow the BOC to bring ISDN services to customers who would otherwise be uneconomic to serve.
- Thus, a waiver of a LATA boundary for a single type of service – in this case, xDSL service -- does not eviscerate the boundary for other services, such as voice telephony.